

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GERALD SHAY	:	CIVIL ACTION
	:	
v.	:	NO. 23-3507
	:	
PENNSYLVANIA DEPARTMENT OF	:	
TRANSPORTATION, JOSEPH	:	
HOMITZ, MATTHEW WHITAKER	:	

ORDER

AND NOW, this 24th day of July 2024, upon considering defendants' motion to dismiss (DI 15), plaintiff's opposition (DI 16), following oral argument held on June 12, 2024, and for reasons in the accompanying memorandum, it is **ORDERED**:

1. Defendants' motion to dismiss (DI 15) is **GRANTED in part** and **DENIED in part**.

2. Defendants' motion (DI 15) is **GRANTED** as to the dismissal of defendants Commonwealth of Pennsylvania, PennDot, and Mr. Homitz and Mr. Whitaker in their official capacities. The case against Mr. Homitz and Mr. Whitaker in their individual capacities may proceed into discovery.

3. Defendants' motion (DI 15) is **DENIED** as to the ninety-day EEOC deadline and Mr. Shay's retaliation claim.


MURPHY, J.